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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ADAM BROOKS,

Case No: 2:14-cv-374-GMN-GWF

Plaintiff,

vs.

CITY OF HENDERSON;  
CHIEF JAMES WHITE, individually  
and in his capacity as Interim Chief of  
the Henderson Police Department;  
OFFICER JOSEPH W. EBERT,  
individually; DOES 1 through 10,  
inclusive,

Defendants.

**DISCOVERY PLAN AND SCHEDULING ORDER**

**[Special Scheduling Review Requested - Sec. 4(j)]**

COMES NOW, the Plaintiff, ADAM BROOKS, by and through their counsel, CAL J. POTTER, III, ESQ. and C. J. POTTER, IV, ESQ. of POTTER LAW OFFICES; and Defendants, CITY OF HENDERSON, CHIEF JAMES WHITE, and OFFICER JOSEPH W. EBERT (collectively "Defendants"), by and through their counsel NANCY D. SAVAGE, ESQ. of the HENDERSON CITY ATTORNEY'S OFFICE and hereby submit this Discovery Plan and Scheduling Order:

1 The Defendants first appeared on July 10, 2014 by filing an Motion to Dismiss [ECF 17].  
 2 The parties stayed discovery pending the Court's decision on the Motion to Dismiss [ECF 24].  
 3 On March 17, 2015 the Court granted-in part and denied-in part Defendants' Motion to Dismiss  
 4 [ECF 25]. The Plaintiff chose not to amend his complaint and the Defendants filed an Answer  
 5 on May 11, 2015 [ECF 26].

6 **1. Meeting.** Pursuant to FRCP 26(f) and LR 26-1(a), a meeting was conducted  
 7 telephonically on May 28, 2015; C. J. Potter, IV, Esq. attended for Plaintiff and Nancy D.  
 8 Savage, Esq. attended for Defendants.

9 **2. Pre-Discovery Disclosures.** Plaintiff and Defendants will submit their initial  
 10 disclosures in a timely manner.

11 **3. Discovery Plan.** The parties jointly propose to the Court the following discovery  
 12 plan:

13 (a) Subject of Discovery. Discovery will be needed on the following subjects:  
 14 All claims set forth in Plaintiffs' Complaint, as well as the defenses relevant to the  
 15 action.

16 (b) Discovery Cut-Off Date(s): Discovery will take 181 days, measured  
 17 from, May 28, 2015. All discovery must be commenced in time to be completed  
 18 by *Tuesday, November 24, 2015* (See, section 4(j) below).

19 (c) FRCP 26(a)(2) Disclosures (Experts). Disclosure of experts shall proceed  
 20 as follows: Plaintiffs and Defendants shall disclose their experts to each other at  
 21 least sixty (60) days before the discovery cut-off date, by *Friday, September 25,*  
 22 *2015.* Plaintiffs and Defendants shall disclose their rebuttal experts at least thirty  
 23 (30) days after the initial date for disclosure of experts by *Monday, October 26,*  
 24 *2015,* which is thirty-one (31) days after initial expert disclosure. Further each  
 25 party agrees to make their experts available for deposition, and facilitate same,  
 26 prior to discovery cut-off.

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1       **4. Other Items.**

2           (a) Interim Status Reports.   The parties shall file an interim status report no later  
3           than *Friday, September 25, 2015*. The undersigned counsel certify that they have  
4           read LR 26-3 and that this date is not later than sixty (60) days before the  
5           discovery cut-off date requested.

6           (b) Interrogatories and Depositions. The parties agree to the customary total  
7           number of interrogatories of 25 per party; the parties may agree to more  
8           interrogatories by mutual agreement or application to the Court. The parties also  
9           agree to no more than ten (10) depositions by Plaintiffs and no more than ten (10)  
10          depositions by Defendants as provided in Rule 30(a)(2)(A)(i). However, the  
11          parties may agree to more depositions by mutual agreement or application to  
12          Court.

13          (c) Amending the Pleadings and Adding Parties.   The parties have until  
14          *Wednesday, August 26, 2015* to file any motions to amend the pleadings or to add  
15          parties. This is ninety (90) days prior to the discovery cut-off date.

16          (d) Settlement.           The parties agree to confer prior to expert depositions to  
17          discuss settlement options regarding any and all parties, including any new  
18          parties.

19          (e) Court Conference.       The parties do not request a conference with the  
20          Court before entry of the scheduling order.

21          (f) Later Appearing Parties. A copy of this discovery plan and scheduling order  
22          shall be served on any person served after it is entered, or, if additional defendants  
23          should appear, within five (5) days of their first appearance. This discovery plan  
24          and scheduling order shall apply to such later-appearing parties, unless the Court,  
25          on motion and for good cause shown, orders otherwise.

26          (g) Dispositive Motions.     The parties shall have until *Thursday, December 24,*  
27          *2015* to file dispositive motions. This is thirty (30) days after the discovery cut-  
28          off date and does not exceed the outside limit of thirty (30) days following the

1 discovery cut-off date that LR 26-1(e)(4) presumptively sets for filing dispositive  
2 motions.

3 (h) Pretrial Order. The pretrial order shall be filed by *Friday, January 22,*  
4 *2016*, which is twenty-nine (29) days, after the date set for filing dispositive  
5 motions in the case. This date is suspended if the dispositive motions are timely  
6 filed. In such a case, the pretrial order shall be filed thirty (30) days after the Court  
7 files an Order on any dispositive motions. The disclosures required by FRCP  
8 26(a)(3) shall be made in the joint pretrial order.

9 (i) Extension of Any Date or Modification of the Discovery Plan and Scheduling  
10 Order. LR 26-4 governs modifications or extensions of this discovery plan and  
11 scheduling order. Any stipulation or motion to extend a deadline set forth in the  
12 discovery plan shall be received by the Court not later than twenty-one (21) days  
13 before the subject deadline.

14 (j) Special Scheduling Review Requested. The parties conducted their FRCP  
15 26(f) case conference on May 28, 2015, but inadvertently failed to submit a  
16 DPSO. The Court issued an Order [ECF 28] requesting the filing of a DPSO and  
17 scheduling a discovery conference. At the present, approximately 120 days have  
18 lapsed since the stay was lifted and approximately 60 days have lapsed since  
19 Defendants' Answer, but the parties have not begun engaging in discovery, as  
20 such, an initial extended period is necessary for the parties to participate in  
21 discovery and prepare their cases for trial. This special scheduling request is  
22 made in good faith and not for the purpose of delay.

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ACTIVITY	DATE
Amend Pleadings	Wednesday, August 26, 2015
Interim Status Report	Friday, September 25, 2015
Disclose Experts	Friday, September 25, 2015
Rebuttal Experts	Monday, October 26, 2015
<b>Discovery Cut-Off Date</b>	<b>Tuesday, November 24, 2015</b>
Dispositive Motions	Thursday, December 24, 2015
Pretrial Order	Friday, January 22, 2016

APPROVED AS TO FORM AND CONTENT.

DATED this 21<sup>st</sup> day of July, 2015.

POTTER LAW OFFICES

By /s/ C. J. Potter, IV, Esq.  
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*Attorneys for Plaintiff*

DATED this 23<sup>rd</sup> day of July, 2015.

CITY OF HENDERSON

By /s/ Nancy D. Savage, Esq.  
 NANCY D. SAVAGE, ESQ.  
 Nevada Bar No. 392  
 240 Water Street  
 Las Vegas, Nevada 89101  
*Attorney for Defendants*

### ORDER

IT IS SO ORDERED.

DATED

UNITED STATES MAGISTRATE JUDGE